



ATTORNEY DOCKET NO. 1671-0004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Mark J. Weiser

Serial No.: 09/842,963

Filed: April 27, 2001

For: **DEVICE FOR CONTAINING ANIMAL REPELLANT AND
ATTRACTANT COMPOSITIONS**

Group Art Unit: 1616

Examiner: Neil S. Levy

Assistant Commissioner for Patents
Attention: Office of Petitioner
Box DAC
Washington, D.C. 20231

I, Philip E. Levy, hereby certify that this correspondence and all documents indicated as being provided therewith are being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Attention: Office of Petitions, Box DAC, Washington D.C. 20231 on: 3/6/03 Date of Deposit [Signature] Signature

**PETITION FOR REVIVAL OF UNINTENTIONALLY
ABANDONED APPLICATION UNDER 35 C.F.R. § 1.137(b)**

Sir:

The above-identified application became abandoned for failure to file a timely and proper response to the notice mailed by the Patent and Trademark Office on February 5, 2002. Applicant hereby petitions the Commissioner for revival of this application

03/12/2003 SLURNG1 00000032 09842963

01 FC:2453

650.00 OP

RECEIVED
MAR 13 2003
OFFICE OF PETITIONS

pursuant to 37 C.F.R. § 1.137(b) because the abandonment of the application was unintentional.

The general facts supporting this Petition are as follows:

1. The present application was filed on April 27, 2001.
2. On February 5, 2002, an Office Action was mailed by the Patent and Trademark Office to Applicant's then attorney of record, George C. Atwell. The Office Action required restriction between Group I, claims 1-16, Group II, claims 17-22, and Group III, claim 23, and an election of species.
3. No response to the February 5, 2002 Office Action was filed with the Patent and Trademark Office by Attorney Atwell.
4. On September 10, 2002, a Notice of Abandonment was sent to Attorney Atwell stating that the present application had been abandoned for failure to respond to the February 5, 2002 Office Action.
5. Applicant never received a copy of the February 5, 2002 Office Action or the Notice of Abandonment from Attorney Atwell.
6. In January of 2003, after repeated attempts to contact Attorney Atwell regarding the present application were not successful, Applicant retained Metz Lewis LLC and the undersigned to assume prosecution of the present application.
7. The undersigned promptly obtained a copy of the Patent and Trademark Office file for the present application, and thereafter informed Applicant of the facts set forth in paragraphs 2 and 3 of this Petition and the fact that the present application had been abandoned for a failure to respond. This was the first that Applicant had learned of these facts.

8. Applicant immediately requested the undersigned to file this Petition to revive the present application as Applicant had no intention of abandoning the present application. The entire delay from the date on which a response to the February 5, 2002 Office Action was due to the filing of this Petition was unintentional.

Along with this Petition, Applicant has enclosed: (1) a declaration of the Applicant, Mark J. Weiser; (2) a proper response to the February 5, 2002 Office Action; and (3) a check for \$650.00 for the fee for filing this Petition. Should any additional fees be required in connection with this Petition, the Commissioner is hereby authorized to charge such fees to Deposit Account No. 50-0525. No extension of time or other fee is believed to be due for filing the present Petition. In the event an extension of time or other fee is required, Applicant hereby petitions for any additional fees required to make this Petition or any paper filed herewith timely, and any associated fee may be charged to Deposit Account No. 50-0525. **A DUPLICATE COPY OF THIS SHEET IS ATTACHED.**

It is respectfully requested that, in view of the above, the present application be revived.

Respectfully submitted,

METZ LEWIS LLC

By: 

Philip E. Levy, Esquire
Reg. No. 40,700
11 Stanwix Street, 18th Floor
Pittsburgh, Pennsylvania 15222
(412) 918-1100

Attorneys for Petitioner

RECEIVED

MAR 13 2003

OFFICE OF PETITIONS